THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26438 1996

Dated 16th March 2006

Between:

G.S.N.Raju S/o.late G.Narayana Raju

…Petitioner

And

The Commissioner, Survey Settlements and Land Records,

A.P. Hyderabad & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 26438 OF 1996

O R D E R:

The petitioner challenges the order dated 8.5.1996, passed by the Commissioner, Survey, Settlements and Land Records, Government of Andhra Pradesh, Hyderabad, the 1st respondent herein.

The father of the petitioner filed an application before the Settlement Officer, the 3rd respondent herein, under Section 11-A of the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short "the Act"), on 7.9.1949, claiming that he is in possession of an extent of Ac.25.00 of land in Sy.No.26 (since renumbered as RS.No.35/1-20 & 21) of Muddasarlova village of Visakhapatnam District, and prayed for grant of ryotwari patta. The land was said to be part of estate. Reliance was placed upon a cist receipt, dated 14.2.1939, and certified copies of Adangal, Survey & Settlement Register, etc.

Through an order, dated 21.1.1975, the

3rd respondent granted patta in favour of father of the petitioner, over an extent of Ac.25.00. Thereafter, the father of the petitioner filed an application, stating that the actual extent is Ac.30-33 cents, and patta may be granted, as regards the balance Ac.5-33 cents also. This application was rejected on 5.5.1975.

The Tahsildar, Visakhapatnam, filed a revision before the Director of Settlement, the 2nd respondent, against the order dated 13.2.1975, whereunder patta was granted in respect of Ac.25.00. The father of the petitioner, in turn, filed revision, aggrieved by the rejection of the claim over Ac.5.33 cents. Through a common order dated 3.7.1975, the 2nd second respondent rejected the revision filed by the Tahsildar, and allowed the revision filed by the father of the petitioner. The further revisions filed by the Tahsildar, against the said orders, were allowed on 30.7.1977, and thereafter, confirmed by this Court in W.P.No.4107 of 1977. Ultimately, the matter was taken to the Supreme Court, in Civil Appeal No.4948 of 1990. The Supreme Court set aside the order of the

1st respondent, and remanded the matter to him, for fresh consideration. After remand, the 1st respondent heard the matter, afresh, and once again set aside the orders dated 3.7.1975 passed by the 2nd respondent.

The petitioner contends that the 1st respondent did not take into account, the clinching evidence, filed on behalf of the petitioner, and had set aside the orders passed by the

2nd respondent, on certain assumptions.

In the counter affidavit filed on behalf of the respondents, a detailed account of the proceedings, commencing from the submission of application under Section 11-A of the Act, till the passing of the impugned orders, is given. It is stated that the

1st respondent found that the petitioner failed to prove his case, as to possession over the land in question, and that no interference is called for.

Learned counsel for the petitioner submits that the

1st respondent discussed and considered, each and every document placed before him, in detail, and ultimately held that the father of the petitioner was entitled for grant of patta, over

Ac.25-00 of land. He contends that whatever may have been the justification, in

rejection of the claim for Ac.5-33 cents, the

2nd respondent ought not to have interfered with the grant of patta over Ac.25.00.

Learned Government Pleader for Revenue, on the other hand, submits that for making a claim under Section 11(b), one must establish the continuous possession up to the notified date, whereas, in the instant case, the possession was claimed on the basis of certain documents, whose genuinety is very much in doubt. He contends that the physical verification also revealed that the petitioner made an attempt to show that the possession was anterior to the notified date.

The land in old Sy.No.25, is part of an estate, which stood abolished with the enactment of the Act. Apart from abolition of the estates, the Act provides for grant of ryotwari pattas in favour of such of the persons, who are found to be in possession, as on the notified date, *viz*. 1.7.1939, subject to certain conditions. The father of the petitioner submitted a claim that he is in possession of Ac.25.00 of land, in the said survey number. On a consideration of the claim, the 3rd respondent granted patta for that land, through order dated 21.1.1975. The father of the petitioner, however, made a further claim for an extent of Ac.5-33 cents, that too, in the form of review of the order, dated 21.1.1975. This was rejected on 5.5.1975. As stated in the previous paragraphs, a revision came to be filed by the Tahsildar, against the order dated 21.1.1975, and another revision by the father of the petitioner, aggrieved by the order dated 5.5.1975, before the 2nd respondent. Both the revisions ended in favour of the father of the petitioner. Thereafter, the matters were taken to the 1st respondent, by way of further revision. The order passed by the 2nd respondent, on 3.7.1975, in favour of the petitioner's family, was set aside by the 1st respondent, through order dated 30.7.1977.

After remand from the Supreme Court, the 1st respondent had undertaken extensive discussion of the matter. Two points were framed as under:

"(1) Whether the subject land is ryoti.

(2) Whether the present respondent made out a case

before the Settlement Officer in the light of the further

material available to claim patta therefore:"

The answer to the 1st point was almost in favour of the petitioner, since as it was held that the records indicate that the land is *zeroyithi* and does not come under *poramboke.*

While dealing with the 2nd point, the 1st respondent closely scrutinized the material that constituted the basis for the

3rd respondent, for granting patta over an extent of Ac.25.00.

Ex.P-1 is a receipt for nazrana and cist, for the land in question. It is said to be having several erasures against the date, and that no corresponding fasli year, for which the payments relate, is said to have been mentioned. Ex.P.4 is an affidavit by the person who issued Ex.P.1. After verification of the contemporary records, the

1st respondent recorded a finding that the person, who signed Exs.P-1 and P-4, did not at all function as Estate Revenue Inspector, on the date on which they were issued. The petitioner is not able to assail this finding of fact.

It has also been observed by the 1st respondent that though a claim was made in 1974 that the father of the petitioner is in possession, for 60 years prior to that date, no records have disclosed his occupancy over the land. In the Village Account No.2 for the Fasli 1350, which would disclose the state of affairs as on the notified date, several interpolations and tamperings were noticed, and they are said to have been made, to build up a case in favour of the father of the petitioner. Serious discrepancies and corrections as to extent have also come to light. A categorical finding is recorded to the effect that the original entry related to Sy.No.1/18, over an extent of Ac.3.93 cents, and the same was interpolated in such a way, as to reflect a totally different state of affairs. No material is placed by the petitioner to disbelieve, or to disturb the findings, recorded by the 1st respondent.

Therefore, this court is not inclined to interfere with the impugned order. The writ petition is accordingly dismissed. There shall be no order as to costs.

(L.NARASIMHA REDDY, J)

Dt. 16th March 2006

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